

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

ESTHER C. LERNER

Plaintiff,

-against-

COHEN & SLAMOWITZ, LLP

(S/I)

Defendant.

COMPLAINT ISLAND OFFICE
CV 05 0455

TRAGER, J.

POHORELSKY, M.

Plaintiff, by and through her attorneys, Katz & Kleinman PLLC, as and for her complaint

alleges as follows:

PRELIMINARY STATEMENT

1. This action seeks redress for the illegal practices of defendant Cohen & Slamowitz, LLP in connection with the collection of debt, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*

JURISDICTION

2. This Court has jurisdiction pursuant to 15 U.S.C. § 1692k (FDCPA) and 28 U.S.C. § 1331. Venue in this District is proper because defendant's collection demands were transmitted into this District and because defendant does business here.

3. Plaintiff, Esther C. Lerner is a "consumer" as defined in the FDCPA, 15 U.S.C. § 1692a(3), in that defendant sought to collect from plaintiff a debt incurred for personal, family or household purposes.

4. Defendant Cohen & Slamowitz, LLP is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and is located at 199 Crossways Park Drive, Woodbury, New York 11797.

FACTS RELATING TO DEFENDANT

5. The New York Department of State Division of Corporations lists the Chairman or Chief Executive Officer of Metro Portfolios, Inc. as David Cohen, 199 Crossways Park Avenue, Woodbury, New York 11797. Exhibit A.

6. On or about August 12, 2004, Cohen & Slamowitz, LLP issued an initial collection letter to Esther C. Lerner. The creditor is listed as Metro Portfolios, Inc.

Exhibit B.

7. Upon information and belief, on September 14, 2004, Esther C. Lerner disputed the validity of the debt by United States Postal Service, First Class Mail. Exhibit C.

8. The Fair Debt Collection Practices Act, 15 U.S.C. § 1692g(b) states in pertinent part:

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or any copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

9. Upon information and belief, the debt collector proceeded with collection of the disputed debt without mailing the consumer the required verification documents.

PRACTICES COMPLAINED OF

10. By defendant filing a civil action concerning a timely disputed debt, defendant violated 15 U.S.C. § 1692g(b).

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff against each defendant for:

- (a) Statutory damages.
- (b) Actual Damages
- (c) Attorney's fees, litigation expenses and costs.
- (d) Such other or further relief as the Court deems appropriate.

KATZ & KLEINMAN PLLC

By: 

Abraham Kleinman (AK-6300)
626 EAB Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (516) 522-2890

JURY DEMAND

Plaintiff demands trial by jury.

Dated: January 26, 2005
Uniondale, New York 11556


Abraham Kleinman (AK-6300)

EXHIBIT A

NYS Department of State

Division of Corporations

Entity Information

Selected Entity Name: METRO PORTFOLIOS, INC.

Current Entity Name: METRO PORTFOLIOS, INC.

Initial DOS Filing Date: JULY 09, 2002

County: NASSAU

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: ACTIVE

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

METRO PORTFOLIOS, INC.
199 CROSSWAYS PARK AVENUE
PO BOX 9004
WOODBURY, NEW YORK 11797-9004

Chairman or Chief Executive Officer

DAVID COHEN
199 CROSSWAYS PARK AVE
PO BOX 9004
WOODBURY, NEW YORK 11797-9004

Principal Executive Office

METRO PORTFOLIOS, INC.
199 CROSSWAYS PARK DRIVE
PO BOX 9004
WOODBURY, NEW YORK 11797-9004

Registered Agent

NONE

NOTE: New York State does not issue organizational identification numbers.

[[Search Results](#)] [[Search the Database](#)]

[[Division of Corporations, State Records and UCC Home Page](#)] [[NYS Department of State Home Page](#)]

EXHIBIT B

**Law Offices
Cohen & Slamowitz, LLP**

(516) 686-8950

Fax 516 364-6067

YOUR ACCOUNT REPRESENTATIVE IS: L. WIESSEN

January 18, 2005

**P.O. Box 9004
Woodbury, NY 11797-9004**

**ESTHER C LERNER
1555 CARROLL ST 1ST FLR
BROOKLYN NY 11213-5329**

**RE: CREDITOR: METRO PORTFOLIOS, INC.
JUDGMENT DEBTOR: ESTHER C LERNER
C&S FILE NO.: C107236
INDEX NO.: 102604/04
JUDGMENT BALANCE DUE: \$4,128.38**

DEAR ESTHER C LERNER:

PLEASE BE ADVISED THAT A JUDGMENT WAS ENTERED AGAINST YOU ON January 7, 2005 IN THE SUM OF \$4,117.21. PLEASE BE ADVISED THAT WE SHALL BE COMMENCING JUDGMENT ENFORCEMENT PROCEEDINGS IMMEDIATELY.

NOTICE TO JUDGMENT DEBTOR

MONEY OR PROPERTY BELONGING TO YOU MAY HAVE BEEN TAKEN OR HELD IN ORDER TO SATISFY JUDGMENTS. STATE AND FEDERAL LAWS PREVENT CERTAIN MONEY OR PROPERTY FROM BEING TAKEN TO SATISFY JUDGMENTS OR ORDERS. SUCH MONEY OR PROPERTY IS SAID TO BE "EXEMPT". THE FOLLOWING IS A PARTIAL LIST OF MONEY WHICH MAY BE EXEMPT:

SUPPLEMENTAL SECURITY INCOME (SSI), SOCIAL SECURITY, PUBLIC ASSISTANCE (WELFARE), ALIMONY OR CHILD SUPPORT, UNEMPLOYMENT BENEFITS, DISABILITY BENEFITS, WORKERS' COMPENSATION BENEFITS, PUBLIC OR PRIVATE PENSIONS, AND VETERANS BENEFITS.

IF YOU THINK THAT ANY OF YOUR MONEY THAT HAS BEEN TAKEN OR HELD IS EXEMPT, YOU MUST ACT PROMPTLY BECAUSE THE MONEY MAY BE APPLIED TO THE JUDGMENT. IF YOU CLAIM THAT ANY OF YOUR MONEY THAT HAS BEEN TAKEN OR HELD IS EXEMPT, YOU MAY CONTACT THE PERSON SENDING THIS NOTICE.

ALSO, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. THE LAW (NEW YORK CIVIL PRACTICE LAW AND RULES, ARTICLE 4 AND SECTIONS FIFTY-TWO HUNDRED THIRTY-NINE AND FIFTY-TWO HUNDRED FORTY) PROVIDES A PROCEDURE FOR DETERMINATION OF A CLAIM TO AN EXEMPTION.

**COHEN & SLAMOWITZ, LLP
DAVID A. COHEN, ESQ./MITCHELL G. SLAMOWITZ, ESQ.**

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.



EXHIBIT C

**ESTHER C. LERNER
1555 CARROLL STREET
BROOKLYN, NY 11213**

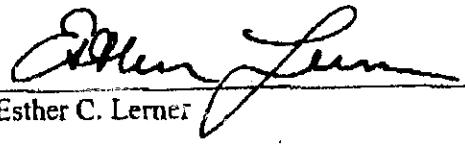
September 14, 2004

Cohen and Slamowitz, LLP
199 Crossways Park Drive
PO Box 9004
Woodbury, NY 11797-9004

Re: C&S File No: C107236
Account No: 5424180498264511
Creditor: Metro Portfolios, Inc.

Dear Sirs:

I dispute the validity of this debt.


Esther C. Lerner